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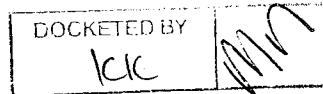
BEFORE THE ARIZONA CORPORATION COMMISSION**COMMISSIONERS**

Arizona Corporation Commission

DOCKETED

FEB 12 2009

KRISTIN K. MAYES - Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP



IN THE MATTER OF THE APPLICATION OF
RIDGELINE WATER COMPANY, L.L.C. FOR
A CERTIFICATE OF CONVENIENCE AND
NECESSITY.

DOCKET NO. W-20589A-08-0173

DECISION NO. 70748**OPINION AND ORDER**

DATE OF HEARING: October 2, 2008

PLACE OF HEARING: Tucson, Arizona

ADMINISTRATIVE LAW JUDGE: Belinda A. Martin

APPEARANCES: Lawrence V. Robertson, Jr., on behalf of Ridgeline Water Company, L.L.C.; and
Kevin Torrey, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:**PROCEDURAL HISTORY**

On March 25, 2008, Ridgeline Water Company, L.L.C. ("Ridgeline" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for a certificate of convenience and necessity to provide water service ("CC&N" or "Certificate") in an unincorporated area within Pima County, Arizona ("Application").

On April 16, 2008, the Commission's Utilities Division Staff ("Staff") notified the Company that its Application was insufficient pursuant to the requirements of the Arizona Administrative Code ("A.A.C.") and provided the Company with Staff's first set of data requests.

On April 23, 2008, Ridgeline filed its responses to the data requests.

On May 5, 2008, Staff filed its second set of data requests.

On May 27, 2008, Ridgeline filed its responses to the second set of data requests.

1 On June 6, 2008, Staff notified the Company that its Application was sufficient pursuant to
2 the requirements of the A.A.C.

3 By Procedural Order issued June 30, 2008, this matter was scheduled for hearing on
4 September 4, 2008.

5 Pursuant to the June 30, 2008, Procedural Order, Ridgeline mailed notice of the hearing to all
6 property owners in the affected area on July 19, 2008, and published notice in the *Arizona Daily Star*
7 and the *Tucson Citizen* on July 21, 2008. No comments were filed in response to the notice.

8 On August 15, 2008, Staff filed its Staff Report in this matter. Staff recommended denial of
9 the Application.

10 By Procedural Order issued August 21, 2008, the hearing in this matter was rescheduled, at
11 the Company's request and with Staff's consent, for October 2, 2008, but retained the place and time
12 on September 4, 2008, to take public comment.

13 On September 4, 2008, at the date and time established, an opportunity for public comment
14 was offered. No members of the public appeared to provide comments.

15 On September 5, 2008, the Company filed its Supplement to CC&N Application, addressing
16 Staff's concerns raised in the Staff Report.

17 On September 30, 2008, Staff filed its Supplemental Staff Report. Staff recommended
18 Commission approval of an Order Preliminary to the issuance of a CC&N subject to certain terms
19 and conditions.

20 On October 2, 2008, the hearing in this matter convened before a duly authorized
21 Administrative Law Judge.

22 On October 7, 2008, a Procedural Order was issued directing the parties to file briefs
23 regarding Staff's equity recommendations and the appropriateness of the Order Preliminary.

24 On November 12, 2008, Ridgeline filed its Applicant's Initial Brief.

25 On December 8, 2008, Staff filed its Staff's Closing Brief.

26 On December 17, 2008, Ridgeline filed its Applicant's Reply Brief.

DISCUSSION

Ridgeline is an Arizona limited liability company ("L.L.C.") in good standing with the Commission's Corporations Division. The Company seeks a CC&N to provide water service to an unincorporated portion of land near Madera Canyon, south of Tucson, Pima County, Arizona. Ridgeline does not provide water service anywhere in Arizona.

Ridgeline's managing member is Mr. Jeffrey Utsch through his corporation, Tucson Acquisition and Development Corporation ("TADC"), a Nevada Corporation. Ridgeline's other member is Mr. Patrick Nikitenko. Mr. Utsch is also the managing member of Pollux Properties, L.L.C. ("Pollux" or "Parent Company"), through TADC.¹ Pollux owns the property sought to be served under the proposed CC&N, which will be developed as Ridgeline Estates. Because there are no other water companies in the area, Ridgeline was formed in May 2007 for the purpose of providing water service to Ridgeline Estates.²

The Application notes that on January 4, 2008, Pollux requested provision of water service within the area described in the legal description attached hereto as Exhibit A. The property consists of 632 acres.³ The development will consist of 136 single-family homes on 4-5 acre lots and is currently zoned for such use. At the time of the Application, the anticipated lot sales price was \$250,000 and home construction costs were expected to be in the \$700,000 to \$2,000,000 range.

Ridgeline states that the 632 acres comprising the development currently are not located in any city or town, nor are they located within or adjacent to the existing CC&N of any other public service entity providing water or wastewater service. There are no existing water utility service connections within the proposed CC&N area.⁴ According to Ridgeline engineering witness Greg Carlson, the nearest water company is Farmers Water Company, approximately five miles away.⁵

According to the Application, Pollux intends to impose certain conditions, covenants and restrictions promoting water conservation. The development project will not include any parks,

¹ Transcript, at 15-16, 60-62.

² *Id.*, at 15-16.

³ According to the Application, Pollux actually owns 673 acres in the area, but is seeking service from Ridgeline for only 632 acres. The additional 41 acres were originally included in the legal description provided by the title company as Parcels 25 through 27, but have been deleted from the legal description, attached hereto as Exhibit A.

⁴ Transcript, at 73.

⁵ *Id.*, at 87.

1 recreation areas, golf courses, green belts, ornamental lakes or other water features. Ridgeline
2 Estates' homes will have individual septic systems and, given the small size of the development,
3 effluent will not be available as a conservation measure.⁶

4 At full build-out, Ridgeline's water system will consist of one 150 gallons per minute ("gpm")
5 well, one 250 gpm well, three storage reservoirs with an aggregate storage capacity of 196,840
6 gallons and two booster stations. The system design incorporates a minimum fire flow requirement of
7 1,000 gpm over two hours.

8 Ridgeline projected its plant costs to be \$3,928,723 and anticipates that the development will
9 be financed by a combination of funds provided by the master developer through Advances in Aid of
10 Construction ("AIAC") and/or Contributions in Aid of Construction ("CIAC") and common equity.
11 The development will be constructed over a period of five years, at which time, the Company
12 projects a capital structure of 54 percent AIAC and 46 percent equity.

13 According to the Company, construction of the water system will begin in 2010 and will be
14 completed over a 12-month period. Based on Ridgeline's projections, it will be serving 34 customers
15 in the first year and 136 customers by the end of the fifth year.

16 Ridgeline has not received a public utilities license agreement ("PULA") from the Pima
17 County Board of Supervisors.⁷

18 Evidence submitted by the Company indicates that the Arizona Department of Water
19 Resources ("ADWR") issued its Analysis of Assured Water Supply on February 14, 2008, stating
20 that the development will have sufficient water for the statutorily required 100 years. Ridgeline
21 anticipates that ADWR will issue its Certificate of Assured Water Supply after the final platting of
22 Ridgeline Estates.

23 The Company's proposed water system will be located in the Tucson Active Management
24 Area ("AMA") and will be subject to Tucson AMA reporting requirements.

25 ...

26 ...

27 _____
28 ⁶ Transcript, at 65.

⁷ Transcript, at 89-90. In Pima County, the franchise agreement is referred to as a public utility license agreement.

1 Staff Analysis

2 On August 15, 2008, Staff filed its Staff Report. For reasons discussed below, Staff did not
3 recommend approval of Ridgeline's Application. However, Staff made alternate recommendations
4 concerning the Company's revenue requirement, rate base, and rate design if the Commission
5 decided to approve Ridgeline's Application.

6 Noting that Ridgeline is a wholly-owned subsidiary of Pollux, Staff stated:

7 Ridgeline provided its Parent Company's unaudited balance sheet and income
8 statement for the year ended December 31, 2007. These financial statements reported
9 total assets of approximately \$3.97 million, total liabilities of approximately \$3.96
10 million, total equity of \$15,639 and net income of \$703. Because of the highly
11 leveraged nature of the Parent Company, coupled [with] the Company's lack of
12 technical and managerial experience with operating a water utility, Staff recommends
13 denial. Staff is concerned because the Company's financials do not demonstrate that
14 the Company has the ability to sustain itself thereby placing its customers at risk.⁸

15 According to Ridgeline, the Company plans to finance the construction of the water system
16 with a combination of \$1.8 million in common stock and \$2 million in AIAC/CIAC. Staff's concern
17 is that if Ridgeline experiences any financial difficulties issuing any of its common stock, the Parent
18 Company may not have sufficient resources to fund Ridgeline's capital and operating cash shortages.
19 As such, Staff recommended denial of the Application.

20 Staff noted that the Company included five-year projections for plant values, operating
21 revenues, operating expenses and the number of customers to be served. According to Staff, such
22 projections and assumptions are necessary to establish a fair value rate of return and initial rates due
23 to lack of historical information.

24 Staff reviewed Ridgeline's projected total plant-in-service costs of \$3,928,723 for the first
25 five years and found them to be reasonable. However, Staff did not make a "used and useful"
26 determination of the proposed plant-in-service costs and Staff cautioned that no particular treatment
27 should be inferred for ratemaking or rate base purposes.

28 Using the projected total plant-in-service, the Company projected a fair value base rate (which
is the same as original cost rate base ("OCRB")), of \$1,322,170 at the end of the fifth year of

⁸ August 15, 2008 Staff Report, Executive Summary.

operation. Ridgeline calculated its projected OCRB using the 54 percent AIAC/CIAC, 46 percent equity capitalization noted earlier.

Staff made two adjustments to Ridgeline's proposed OCRB. First, Staff recalculated the accumulated depreciation using Staff's recommended depreciation rates. The changes resulted in a \$35,512 decrease in accumulated depreciation, resulting in a net plant-in-service at the end of five years of \$3,512,150.

Second, for reasons discussed below, Staff recommended that the Company be required to adopt a capital structure at the end of five years of 70 percent equity and 30 percent AIAC/CIAC. This would result in a decrease of Ridgeline's projected AIAC/CIAC at the end of five years from \$2,154,468 to \$1,196,808. Staff's calculations would result in an OCRB of \$2,315,342, or an increase of \$993,172 over Ridgeline's projected OCRB. Staff recommended the 70 percent equity and 30 percent AIAC/CIAC because "[u]ndercapitalized investor owned utilities may result in rate bases that are too small to generate enough revenue to pay for operating expenses and fund capital improvements without extraordinarily high rates of return."⁹ Given the highly leveraged nature of the Parent Company and that Ridgeline has no experience in managing a water company, Staff believed that the 70 percent equity and 30 percent AIAC/CIAC requirement was warranted.

Ridgeline's proposed rates and charges and Staff's recommended rates and charges are as follows:

	Proposed Rates	
	<u>Company</u>	<u>Staff</u>
<u>MONTHLY USAGE CHARGE:</u>		
5/8" x 3/4" Meter	\$105.50	\$100.00
3/4" Meter	158.25	150.00
1" Meter	263.75	250.00
1 1/2" Meter	527.50	500.00
2" Meter	844.00	800.00
3" Meter	1,688.00	1,500.00
4" Meter	2,637.00	2,500.00
6" Meter	5,275.00	5,000.00
GALLONS INCLUDED IN MONTHLY CHARGE:	0	0

⁹ Staff Report, page 5.

UNIFORM COMMODITY RATE
Per 1,000 gallons for all usage except standpipe

\$ 5.00

N/A

COMMODITY CHARGE PER 1,000 GALLONS OF
USAGE:

5/8 x 3/4" Meters

0 to 3,000 Gallons

N/A

\$ 6.00

3,001 to 10,000 Gallons

N/A

10.00

10,001 Gallons and above

N/A

13.00

3/4" Meters

0 to 3,000 Gallons

N/A

\$ 6.00

3,001 to 10,000 Gallons

N/A

10.00

10,001 Gallons and above

N/A

13.00

1" Meters

3,001 to 10,000 Gallons

N/A

\$10.00

10,001 Gallons and above

N/A

13.00

1 1/2" Meters

3,001 to 10,000 Gallons

N/A

\$10.00

10,001 Gallons and above

N/A

13.00

2" Meters

3,001 to 10,000 Gallons

N/A

\$10.00

10,001 Gallons and above

N/A

13.00

3" Meters

3,001 to 10,000 Gallons

N/A

\$10.00

10,001 Gallons and above

N/A

13.00

4" Meters

3,001 to 10,000 Gallons

N/A

\$10.00

10,001 Gallons and above

N/A

13.00

6" Meters

3,001 to 10,000 Gallons

N/A

\$10.00

10,001 Gallons and above

N/A

13.00

Standpipe or bulk water per 1,000 gallons

(a)

(a)

(a) Company does not intend to offer standpipe service.

SERVICE CHARGES:

Establishment	\$25.00 (a)	\$25.00 (a)
Establishment of Service(After Hours)	40.00 (b)	40.00 (b)
Re-establishment of Service(Within 12 Months)	(a)	(a)
Reconnection	25.00 (c)	25.00 (c)
Charge for moving meter at customer request	Cost (d) *	Cost (d) *
After hours service charge, per hour	40.00 (a)	N/A
After hours service charge, flat rate	N/A	40.00 (a)
Deposit	(e)	(e)
Meter reread	15.00 (f)	15.00 (f)
Charge for NSF Check	15.00 (g)	15.00 (g)
Late Payment charge	1.50% (h)	1.50% (h)
Deferred Payment Finance Charge	1.50% (i)	1.5% (i)
Main Extension and additional facilities agreements per Rule R14-2-406.B	Cost *	N/A **
All revenue related taxes would be charged to customers.		

*Cost to include part, labor, overhead, and all applicable taxes.

**Not applicable. Main line extension agreements must be submitted to the Commission for review and approval per Commission Rule A.A.C. R14-2-406.

- (a) Per Commission Rule A.A.C. R14-2-403(D).
- (b) Months off system times the monthly minimum per Commission Rule A.A.C. R14-2-403(D)(2).
- (c) Per Commission Rule A.A.C. R14-2-403(D)(1).
- (d) Per Commission Rule A.A.C. R14-2-405(B)(5).
- (e) Per Commission Rule A.A.C. R14-2-403(B).
- (f) Per Commission Rule A.A.C. R14-2-408.
- (g) Per Commission Rule A.A.C. R14-2-409(F)(1).
- (h) Per Commission Rule A.A.C. R14-2-409(C)(1).
- (i) Per Commission Rule A.A.C. R14-2-409(G).

SERVICE LINE AND METER INSTALLATION CHARGES:

	Company's Proposed Service Line Charges	Company's Proposed Meter Charges	Company's Proposed Total Charges	Staff Recommended Service Line Charges	Staff Recommended Meter Charges	Staff Recommended Total Charges
5/8" x 3/4" Meter	\$ 385.00	\$ 135.00	\$ 520.00	\$ 415.00	\$ 105.00	\$ 520.00
3/4" Meter	385.00	215.00	600.00	415.00	205.00	620.00
1" Meter	435.00	255.00	690.00	465.00	265.00	730.00
1 1/2" Meter	470.00	465.00	935.00	520.00	475.00	995.00
2" Meter (Turbine)	630.00	965.00	1,595.00	800.00	995.00	1,795.00
2" Meter (Compound)	630.00	1,690.00	2,320.00	800.00	1,840.00	2,640.00
3" Meter (Turbine)	805.00	1,470.00	2,275.00	1,015.00	1,620.00	2,635.00
3" Meter (Compound)	845.00	2,265.00	3,110.00	1,135.00	2,495.00	3,630.00

1	4" Meter	1,170.00	2,350.00	3,520.00	1,430.00	2,570.00	4,000.00
	(Turbine)						
2	4" Meter	1,230.00	3,245.00	4,475.00	1,610.00	3,545.00	5,155.00
	(Compound)						
3	6" Meter	1,730.00	4,545.00	6,275.00	2,150.00	4,925.00	7,075.00
	(Turbine)						
4	6" Meter	1,770.00	6,280.00	8,050.00	2,270.00	6,820.00	9,090.00
	(Compound)						

5 Ridgeline's customer base is projected to be solely residential and its proposed rates are
6 distinguished by meter size. The Company's proposed rates have one commodity rate for all usage. In
7 order to promote efficient water use, Staff's recommended rate design adopts an inverted tier rate
8 design, which includes three tiers for the 5/8" and 3/4" meters which typically serve residential
9 customers.

10 Staff calculated its recommended rates based on adjusted projected revenues in the fifth year
11 of \$339,273, which would generate a fifth year operating income of \$185,227, resulting in an 8.00
12 percent rate of return on Staff's adjusted estimated OCRB of \$2,315,342.¹⁰

13 Additionally, among other recommendations that are discussed below, Staff recommended
14 that Ridgeline should file a \$250,000 performance bond or sight draft letter of credit because of the
15 Parent Company's financial situation and the fact that Ridgeline has no prior experience in operating
16 a public utility.

17 Shortly after Staff issued its Staff Report recommending denial of the Application, Ridgeline
18 met with Staff to discuss ways by which the Company might alleviate Staff's concerns. On
19 September 5, 2008, the Company filed its Supplement to CC&N Application, revising its Application
20 in an effort to address Staff's concerns.

21 First, Ridgeline addressed Staff's concerns about the Parent Company's highly leveraged
22 position. Pollux's liabilities are in the form of Deeds of Trust executed by Pollux for the benefit of
23 Pollux's investors, related to the purchase of the property for the proposed development. The
24 Company has discussed Staff's concerns with Pollux's investors and, according to Ridgeline, each
25 investor has agreed to convert its current beneficial interest under a Deed of Trust into an equity
26 ownership interest in Pollux. This conversion will be effectuated through a Private Offering
27

28 ¹⁰ Staff Report, Schedule CSB W-1, Page 1.

1 Memorandum and Subscription Agreements. At the close of this transaction, Pollux will have
2 approximately \$3.97 million in assets in the form of the affected property, and approximately \$3.97
3 million in equity.¹¹

4 To address Staff's concerns regarding Ridgeline's lack of technical and managerial
5 experience in operating a water utility, the Company will retain Southwestern Utility Management,
6 Inc. ("SWUM") to operate the water company, and intends to designate James D. Dorough as the
7 Certified Operator for the water system.¹²

8 As far as Ridgeline's ability to financially sustain itself as a public service corporation, the
9 Company notes that Ridgeline will invest \$1.8 million in common equity in its portion of the water
10 system. Pollux investors will have a direct and substantial financial interest in the Company's ability
11 to provide water service for the project as there are no other water companies in the immediate area
12 that might provide water service to Ridgeline Estates should the Company be unable to do so.
13 "Accordingly, the investors of Pollux are prepared to either (i) directly invest as common equity
14 owners of Ridgeline, or (ii) assist in raising the projected \$1.8 million in common equity for the water
15 company, once it has received a CC&N authorizing it to provide water service to Ridgeline
16 Estates."¹³ Additionally, Ridgeline notes that Pollux's Managing Member has extensive experience
17 acquiring project financing.¹⁴

18 Given the above, Ridgeline requested that Staff withdraw its recommendation that the
19 Company file a \$250,000 performance bond or irrevocable sight draft letter of credit. Ridgeline
20 believes there will be no impediment to its ability to reliably and continuously discharge its
21 obligations as a public service corporation, therefore a performance bond or irrevocable sight draft
22 letter of credit is not necessary.

23 Further, Ridgeline objects to Staff's recommendation that the Company attain a 70 percent
24 equity and 30 percent AIAC/CIAC capital structure by the end of Ridgeline's fifth year of operation.
25 Ridgeline states that its proposed capital structure of 46 percent equity and 54 percent AIAC/CIAC
26

27 ¹¹ Supplement to CC&N Application, page 2.

¹² Supplement to CC&N Application, page 3 and Transcript, at 35.

¹³ Supplement to CC&N Application, page 4.

¹⁴ *Id.*

1 reflects the actual allocation between on-site facilities and off-site facilities for the water system
2 infrastructure. Ridgeline asserts that Staff's recommendation would require Ridgeline to fund water
3 system infrastructure usually funded by project developers.

4 On September 30, 2008, Staff filed its Supplemental Staff Report responding to Ridgeline's
5 comments. Staff agreed that the conversion of Pollux's investors' interest from debt to equity would
6 reduce the high level of debt in Pollux's capital structure. However, Staff noted that the Company did
7 not provide the financial statements of its investors to support Ridgeline's assertions that the
8 Company has access to sufficient financial resources should Ridgeline experience any capital and/or
9 operating cash shortages. Therefore, Staff reaffirmed its recommendations regarding the performance
10 bond or irrevocable sight draft letter of credit, and its 70 percent equity and 30 percent AIAC/CIAC
11 capital structure.

12 Staff concluded by recommending Commission approval of an Order Preliminary to the
13 issuance of a CC&N to Ridgeline subject to compliance with the following terms and conditions:

- 14
15 1. Ridgeline shall file with Docket Control a copy of the Approval to Construct
16 ("ATC") issued by Pima County Department of Environmental Quality
17 ("PCDEQ") for water system facilities needed to serve the Ridgeline Estates
development within three years of the effective date of the decision granting an
Order Preliminary;
- 18 2. Ridgeline shall obtain a \$250,000 performance bond or irrevocable sight draft
19 letter of credit before Ridgeline serves its first customer and file evidence of such
20 performance bond or irrevocable sight draft letter of credit with Docket Control as
a compliance item in this docket;
- 21 3. Ridgeline shall submit documentation demonstrating the transaction to convert
22 the debt to equity has taken place;
- 23 4. Ridgeline shall file with Docket Control, as a compliance item in this docket, a
24 copy of the developer's Certificate of Assured Water Supply for the area being
requested, within one year after the effective date of the decision issuing a CC&N
25 in this case;
- 26 5. Ridgeline shall adopt the depreciation rates listed in Table A of the Engineering
Report;
- 27 6. Ridgeline shall adopt Staff's recommended service line and meter installation
28 charges as delineated in Table B of the Engineering Report;

7. Ridgeline shall file a revised curtailment tariff with Docket Control, as a compliance item in this docket, within three years after the effective date of the decision granting the Order Preliminary for review and certification by Staff. Staff further recommends that this tariff include a restriction for operation of a standpipe in conformity with the sample tariff found at the Commission's website;
8. Ridgeline shall file a backflow prevention tariff with Docket Control, as a compliance item in this same docket, within three years after the effective date of the decision granting an Order Preliminary for review and certification by Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found posted on the Commission's website. Staff recognizes that the Company may need to make minor modifications to the sample tariff according to its specific management, operational, and design requirements as necessary and appropriate;
9. Ridgeline shall obtain a capital structure of 70 percent equity and 30 percent AIAC/CIAC by the end of its fifth year of operation;
10. Approval of Staff's recommended rates and charges as shown in Schedule CSB-W5 to the August 15, 2008, Staff Report;
11. Ridgeline shall notify the Commission, through a filing with Docket Control, of the Company's provision of services to customers within 15 days of beginning service to its first customer;
12. Ridgeline shall file a rate application no later than six months following the fifth anniversary of the date the Company begins providing service to its first customer;
13. Ridgeline shall maintain its books and records in accordance with the National Association of Regulatory Commissioners Uniform System of Accounts for Water and Wastewater Facilities; and
14. Once Ridgeline has complied with the above Requirement Nos. 1, 3, 7, and 8, Ridgeline shall make a filing stating so. Within 30 days of such filing, Staff shall file a response. The Commission should schedule this item for a vote to grant the CC&N as soon as possible after Staff's filing confirms Ridgeline's compliance with Requirement Nos. 1, 3, 7, and 8. If Ridgeline does not comply with any one of the Requirement Nos. 1, 3, 7, and 8 within the time specified, the Order Preliminary shall be null and void, and this docket shall be closed.¹⁵

¹⁵ Supplemental Staff Report, page 2-4.

1 At the time of the hearing, Ridgeline objected to only two Staff recommendations.¹⁶ The first
 2 was Staff's recommendation that Ridgeline should file with Docket Control a copy of the developer's
 3 Certificate of Assured Water Supply ("CAWS") within one year after the effective date of the
 4 Decision issuing a CC&N in this case. Ridgeline asserted that a reasonable time frame for
 5 compliance with this item is two years.¹⁷ Staff witnesses, Ms. Katrin Stukov and Ms. Kiana Sears, did
 6 not object to changing the compliance time for this item from one year to two years.¹⁸

7 The second issue concerned the Company's continued objections to Staff's recommended
 8 capital structure of 70 percent equity and 30 percent AIAC/CIAC. Further, although there were no
 9 initial objections to Staff's recommendation that an Order Preliminary should issue, after testimony
 10 by Staff, there was some question as to the appropriateness of the use of an Order Preliminary in this
 11 case. As such, at the conclusion of the hearing, the parties were directed to file briefs in further
 12 support of their respective positions on the capital structure and Order Preliminary issues.

13 Equity to AIAC/CIAC Ratio

14 In its Supplement to CC&N Application, Ridgeline objected to Staff's 70/30 ratio
 15 recommendation mainly because it would require the Company to fund water system infrastructure
 16 anticipated to be funded by developers.¹⁹ At hearing, the Company's finance witness, Mr. Thomas
 17 Bourassa, further summarized Ridgeline's position on this issue. He stated that, in his opinion, Staff's
 18 70/30 ratio is arbitrary and it "pigeonholes management, it eliminates flexibility in managing the
 19 capitalization and, therefore, [it affects] the impact on rates, the amount of investor funds that come
 20 into the company, [and] the return that the investors are allowed to earn until their next [rate] case."²⁰

21 In its Closing Brief, Staff stated, "[t]wo of the primary factors Staff considers in determining
 22 the appropriate capital structure, experience of the proposed operator and financial health of the
 23 parent company, were of particular importance in the instant matter."²¹ Staff reiterates that Ridgeline
 24 has no operational history and Staff is concerned that Ridgeline does not have adequate financial

25 ¹⁶ Although the Company had originally objected to the requirement of a \$250,000 performance bond or irrevocable sight
 26 draft letter of credit, at the time of the hearing Ridgeline did not object to this recommendation. Transcript, at 38-40.

¹⁷ Transcript, at 38-40.

¹⁸ Transcript, at 181, 214.

¹⁹ Supplement to CC&N Application, page 5.

²⁰ Transcript, at 146.

28 ²¹ Staff's Closing Brief, page 2.

1 capacity to provide water service. Further, if Ridgeline meets with financial trouble, Staff is
2 concerned about Pollux's ability to provide financial assistance.

3 Staff notes that typically, for companies requesting a CC&N that have little or no operating
4 experience, Staff actually prefers a capital structure of 100 percent equity. As stated by Staff, the
5 reasoning behind this is as follows:

6
7 In Staff's experience, when a company's capital structure is made up solely of
8 advances or contributions, the company's rate base will be zero, and when a company
9 has not invested any capital, there is no incentive for the company to operate
10 efficiently. With respect to AIAC, even though Commission Rule R14-2-206 states
11 that advances will be returned at a rate of 10 percent per year, oftentimes companies
12 can only partially return the advances, and the rate base on which the companies
13 should be earning is diminished or zero. If the investment in plant depreciates and it is
14 not replaced with either more contributions or advances, the system can become
15 dilapidated and less secure for providing service.²²

16 To address these concerns, Ridgeline indicated to Staff that Pollux will either invest as equity owners
17 of Ridgeline or assist in raising the \$1.8 million Ridgeline projects it will need to construct its portion
18 of the water system. Nevertheless, although Staff does not recommend capitalization of Ridgeline's
19 water system with 100 percent equity, Staff continues to recommend capitalization of 70 percent
20 equity, or approximately \$2.8 million.

21 Staff's witness, Ms. Crystal Brown, asserted that Staff's recommended ratio aids the
22 Company because it ensures that Ridgeline will have a large enough rate base to earn an adequate rate
23 of return.²³ Over time, the increased rate base will help avoid large future rate increases "which
24 sometimes result from a utility's inability to replace existing infrastructure out of the meager returns
25 on a miniscule rate base investment."²⁴ Ms. Brown also testified that Staff's recommended capital
26 structure would encourage Ridgeline to be more concerned about protecting its investment thereby

27 ²² Staff's Closing Brief, pages 2-3.

28 ²³ Transcript, at 186.

²⁴ Staff's Closing Brief, Page 3.

1 ensuring the success of the Company.²⁵ Ms. Brown did not believe that a \$1.8 million investment by
2 the Company was sufficient to adequately compel Ridgeline and Pollux to work to ensure the
3 Company's success.²⁶

4 In their closing briefs, the parties cite to two prior Commission Decisions in which Staff
5 recommended the 70 percent equity and 30 percent AIAC/CIAC ratio: *In the Matter of Beaver Dam*
6 *Water Company, Inc.*, Decision No. 70205 (March 20, 2008), and *In the Matter of Double Diamond*
7 *Utilities, Inc.*, Decision No. 70532 (May 16, 2008).

8
9 In the *Beaver Dam* case, the utility was applying for a CC&N to provide wastewater service.
10 Beaver Dam Water Company had over 20 years experience in operating a water company, but no
11 experience in running a wastewater company. Because of this lack of wastewater utility experience,
12 Staff recommended the 70/30 ratio. In the Decision, however, the Commission approved a revised
13 ratio of 40 percent equity and 60 percent AIAC/CIAC, noting the company's extensive experience in
14 running a public utility and that the company had hired a certified operator for the system.

15
16 In the *Double Diamond* matter, the utility was applying for a CC&N to provide both water
17 and wastewater service. The company had projected a 56 percent AIAC/CIAC and 44 percent equity
18 capitalization, but Staff recommended the 70/30 ratio because the company had no experience in
19 operating a public utility. The Commission adopted the 70 percent equity and 30 percent AIAC/CIAC
20 capital structure, and required the company to file a performance bond.

21 Ridgeline asserts that this case is more akin to *Beaver Dam* noting that, although it has no
22 experience in operating a public utility, it intends to hire SWUM to manage the company and has
23 designated a certified operator for its system. In the *Beaver Dam* Decision, we recognized that the
24 company had over 20 years experience operating a public water utility. While Ridgeline has indicated
25 that it will hire SWUM to manage the day-to-day operations of the water company, Ridgeline itself
26

27
28 ²⁵ Transcript, at 186.

²⁶ *Id.*, page 200.

1 has no experience in the overall management and oversight of a public utility.

2 Staff's other concern was the utility's financial health and the ongoing operations when a
3 utility's owners have invested little or no capital. The Commission also is concerned about the
4 utility's financial health and developers' ability to move forward with projects given current market
5 conditions. At hearing, Mr. Utsch was asked about how market conditions might affect the
6 Company's plans to move forward with the project. Mr. Utsch replied that although the market is
7 currently down, that does not mean that the Company could not move forward with the project.
8 Rather, he testified, the project should move forward so that, when the market does improve, the
9 Company will be "in the best situation possible to have a successful project."²⁷
10

11 Mr. Utsch testified that he has extensive experience in raising funds for a number of
12 projects.²⁸ He believes that this experience will aid him in not only raising the necessary funds for
13 construction of the infrastructure, but also in raising funds or attracting investors should the Company
14 experience financial difficulties. Staff's recommendation requires the Company to acquire almost \$1
15 million more than it anticipated in order to complete construction of the project. Mr. Utsch testified
16 that, should the Commission adopt Staff's recommendation, the Company would still proceed with
17 the project.²⁹
18

19 As a public service company, Ridgeline will have a duty to provide public service in
20 compliance with Arizona law and in a manner that best serves the public interest. Given the
21 Company's financial position, lack of experience in general management and operation of a public
22 utility, and given current market conditions, we believe that Staff's recommended capital structure of
23 70 percent equity and 30 percent AIAC/CIAC is reasonable and appropriate.
24

25 **Order Preliminary**

26 Staff is recommending that the Commission grant an Order Preliminary to the issuance of a
27

28 ²⁷ Transcript, at 62-63.

²⁸ Transcript, at 26, 31, 34.

1 CC&N, subject to compliance with Staff's recommended conditions, which are outlined above.

2 Pursuant to A.R.S. § 40-282 (D), an Order Preliminary to the issuance of a CC&N may be
3 issued by the Commission in the following circumstances:

4 If a public service corporation desires to exercise a right or privilege under a franchise
5 or permit which it contemplates securing, but which has not yet been granted to it, the
6 corporation may apply to the commission for an order preliminary to the issue of the
7 certificate. The commission may make an order declaring that it will thereafter, upon
8 application, under rules it prescribes, issue the desired certificate, upon terms and
9 conditions it designates, after the corporation has obtained the contemplated franchise
10 or permit or may make an order issuing a certificate on the condition that the
11 contemplated franchise or permit is obtained and on other terms and conditions it
12 designates. If the commission makes an order preliminary to the issuance of the
13 certificate, upon presentation to the commission of evidence that the franchise or
14 permit has been secured by the corporation, the commission shall issue the certificate.

15 As noted earlier, at the time of the hearing Ridgeline had not received a PULA from the Pima
16 County Board of Supervisors. During her testimony, Ms. Sears revised Staff's recommendations to
17 include the submission of Ridgeline's PULA as a compliance item to the issuance of a CC&N in this
18 docket. Ms. Sears suggested that the Company be given two years from the date the CC&N is granted
19 to acquire the PULA.³⁰

20 Staff recommended an Order Preliminary to the issuance of a CC&N wherein Ridgeline must
21 file 1) a copy of the ATC for water system facilities needed to serve the Ridgeline Estates
22 development within three years of the effective date of the decision granting an Order Preliminary; 2)
23 documentation demonstrating completion of the transaction to convert the Parent Company's debt to
24 equity; 3) a curtailment tariff within three years of the effective date of the decision granting an Order
25 Preliminary; and 4) a backflow tariff within three years of the effective date of the decision granting
26 an Order Preliminary.³¹

27 After the October 2, 2008, hearing, the Commission issued two other Decisions granting
28 Orders Preliminary: *Valley Pioneers Water Company, Inc.*, Decision No. 70621 (November 19,
2008), and *Perkins Mountain Utility Company*, Decision No. 70663 (December 24, 2008).³² In these

29 Transcript, at 160-161.

30 Transcript, at 214.

31 Staff Report, page 6-7.

32 Commission Decisions up to the time of the hearing generally found that, although A.R.S. §40-282 (D) allows for the
issuance of an Order Preliminary, the process had not been used on a regular basis. *See, for example, Utility Source,*

1 Decisions, the Commission granted the companies an Order Preliminary to the issuance of a CC&N
2 subject to certain conditions similar to those recommended by Staff in this matter.

3 In its Initial Brief, Ridgeline asserted that the conversion of Pollux's debt to equity and the
4 filing of curtailment and backflow tariffs are matters entirely within the Company's control.³³
5 Additionally, curtailment and backflow tariffs are usually addressed as conditions to an issuance of a
6 CC&N.³⁴ Regarding the debt conversion, Mr. Utsch testified Pollux's investors had agreed to the
7 transfer and the documents have been drafted.³⁵ All that remains is the documents' execution, which,
8 according to Mr. Utsch, could be accomplished in as little as 30 days.³⁶ In its Initial Brief, the
9 Company further stated that the acquisition of an ATC, while not entirely within the Company's
10 control, is an item that is typically included within the conditions to an issuance of a CC&N, not an
11 Order Preliminary.³⁷

12 During the hearing, Ms. Sears explained why Staff found that an Order Preliminary was
13 necessary in this case. Ms. Sears' testimony focused on Staff's grave concerns regarding Pollux's
14 current financial position; and that although the Company indicated it will undertake the conversion,
15 it has yet to do so. Additionally, Staff noted that Ridgeline is a new company with no proven
16 financial track record. As such, Staff recommends that the conversion take place before a full CC&N
17 issues.³⁸ Regarding the ATC, curtailment tariff and backflow tariff, Ms. Sears testified that an Order
18 Preliminary will give the Company a three-year period to complete these requirements while
19 Ridgeline is working toward the conversion.³⁹

20 In its Closing Brief, Staff also asserts that, in general, the Commission should not be limited
21 in its ability "to act as it deems appropriate to protect the public interest in the exercise of its statutory

22 *L.L.C.*, Decision No. 67446 (January 4, 2005, denying an Order Preliminary), *Palo Verde Utilities Company, et al.*,
23 Decision No. 68498 (February 23, 2006, granting an Order Preliminary), and *Arizona Water Company*, Decision No.
24 70379 (June 13, 2008, granting an Order Preliminary). At the conclusion of testimony during hearing, the parties were
25 asked to brief their positions on this issue based on these and other Commission Decisions. The Commission's Decisions
26 addressed above were issued after the parties had begun the briefing process, and, as such, the more recent Decisions
27 were not addressed by the parties in their respective briefs.

28 ³³ Applicant's Initial Brief, page 8.

³⁴ *Id.*

³⁵ Drafts of the conversion documents were submitted into evidence as Exhibit A-12.

³⁶ Transcript, at 29.

³⁷ Applicant's Initial Brief, page 12.

³⁸ Transcript, at 216-217.

³⁹ *Id.*, page 219-220.

1 authority.”⁴⁰

2 We agree with Staff that the Commission may grant an Order Preliminary to the issuance of a
3 CC&N not only as specifically authorized in A.R.S. § 40-282(D), but also in situations where it is
4 necessary to protect the public interest.

5 In light of the evidence and testimony presented, and considering recent Commission
6 Decisions, we believe that the issuance of an Order Preliminary is reasonable this case. First, the
7 Company stated that it has not yet received a PULA. Although Ms. Sears testified that Staff did not
8 feel that Ridgeline’s acquisition of a PULA was necessary before the issuance of a CC&N, we
9 believe that it is. We find that application of A.R.S. § 40-282(D) is warranted and will require
10 Ridgeline to file a copy of the PULA with Docket Control within one year of the effective date of this
11 Decision.

12 Second, we believe it is in the public interest to require Ridgeline to file copies of the
13 executed conversion documents with Docket Control within 90 days of the effective date of this
14 Decision. We also adopt Staff’s recommendations that Ridgeline should file the ATC, curtailment
15 tariff, or backflow tariff within three years of the effective date of this Decision.

16 As such, we adopt Staff’s condition number 14, as listed above, except that we will modify
17 this condition to state that, once Ridgeline has complied with the above Requirement Nos. 1, 3, 7, and
18 8, Ridgeline shall file a motion in this docket requesting that the Commission grant the CC&N. Upon
19 the motion of Ridgeline and Staff’s verification that Ridgeline has satisfied these conditions, Staff
20 shall prepare and docket a recommended Order granting the CC&N for Commission approval.

21 Finally, we adopt Staff’s recommendation that, if the Company fails to comply with these
22 deadlines, then the Order Preliminary shall become null and void and Staff shall issue a
23 memorandum to close this docket.

24 * * * * *

25 Having considered the entire record herein and being fully advised in the premises, the
26 Commission finds, concludes, and orders that:

27

28 ⁴⁰ Staff’s Closing Brief, page 5.

FINDINGS OF FACT

1
2 1. Ridgeline is an Arizona limited liability company in good standing with the
3 Commission's Corporation Division. Ridgeline was formed to provide water services to the planned
4 development of Ridgeline Estates.

5 2. The Ridgeline Estates development will be located near Madera Canyon, south of
6 Tucson, Pima County, Arizona, encompassing 632 acres.

7 3. Ridgeline is owned by Pollux, which owns the property for Ridgeline Estates. Mr.
8 Jeffrey Utsch, through TADC, is the managing member of both Ridgeline and Pollux.

9 4. Pollux requested water service for the project area by correspondence dated January 4,
10 2008, and Ridgeline filed its Application with the Commission on March 25, 2008.

11 5. The Company provided notice of the Application and the hearing in accordance with
12 the law.

13 6. The proposed development is not located in any city or town. It is not adjacent to or
14 within any existing CC&N of any other public water or wastewater facility. The nearest water
15 company is approximately five miles away.

16 7. There will be no parks, recreation, areas, golf courses, green belts, ornamental lakes or
17 other water features as part of the Ridgeline Estates development.

18 8. The Commission has become increasingly concerned about the prolonged drought in
19 Central Arizona. While the Company has stated that its development project will not include any
20 parks, recreation areas, golf courses, green belts, ornamental lakes or other water features, the
21 Commission remains concerned that any future changes to these plans could result in the use of
22 groundwater for these purposes. We believe that in light of the ongoing need to conserve
23 groundwater, Ridgeline Water Company should be prohibited, in accordance with its stated plans,
24 from selling groundwater for the purpose of irrigating any golf courses within the certificated area or
25 any ornamental lakes or water features located in the common areas of the proposed new
26 developments within the certificated area.

27 9. The completed water system will consist of one 150 gpm well, one 250 gpm well,
28 three storage reservoirs with a total storage capacity of 196,840 gallons and two booster stations.

1 10. Ridgeline's projected plant costs are \$3,928,723, which will be funded through a
2 combination of common equity and AIAC/CIAC.

3 11. Construction of the water system is anticipated to begin in 2010 and is expected to be
4 completed over a 12-month period. Ridgeline projects it will serve 34 customers in its first year and
5 136 customers by the end of its fifth year of operation. Ridgeline Estates' homes will have individual
6 septic systems.

7 12. Ridgeline has not received a PULA from the Pima County Board of Supervisors.

8 13. ADWR's Analysis of Assured Water Supply states that the development will have
9 sufficient water for the statutorily required 100 years. The Certificate of Assured Water Supply has
10 not been issued.

11 14. Ridgeline's proposed water system will be located in the Tucson AMA and will be
12 subject to the Tucson AMA reporting requirements.

13 15. Ridgeline does not have Commission-approved curtailment or backflow tariffs.

14 16. On August 15, 2008, Staff filed its Staff Report recommending denial of Ridgeline's
15 Application, or, in the alternative, recommending that the Commission adopt Staff's proposed
16 revenue, rate base, and rate design should the Commission wish to approve the Application.

17 17. Staff recommended denial because of the highly leveraged position of Ridgeline's
18 Parent Company, and because of Ridgeline's lack of technical and managerial experience operating a
19 water utility.

20 18. Ridgeline filed its Supplement to CC&N Application on September 5, 2008,
21 proposing to alter Pollux's financial structure by converting its liabilities, currently in the form of
22 deeds of trust for the benefit of Pollux's investors against the subject property, into an equity
23 ownership interest.

24 19. The conversion documents have not been executed.

25 20. Ridgeline proposes to address its lack of experience in operating a public utility by
26 retaining SWUM to operate the Company and anticipates hiring Mr. James D. Dorough as the
27 Certified Operator.

28 21. On September 30, 2008, Staff filed its Supplemental Staff Report, recommending

Commission approval of an Order Preliminary to the issuance of a CC&N subject to certain terms and conditions before a CC&N would issue.

22. Staff reviewed Ridgeline's projected total plant-in-service costs of \$3,928,723 and found them to be reasonable. However, Staff did not make a "used and useful" determination of the proposed plant-in-service costs and no conclusions should be inferred for ratemaking or rate base purposes.

23. Staff made two adjustments to Ridgeline's projected OCRB of \$1,322,170. Staff recalculated accumulated depreciation, resulting in a \$35,512 decrease to Ridgeline's projected accumulated depreciation. This resulted in an adjusted net plant-in-service at the end of five years of \$3,512,150. Second, because of the Company's financial issues, and because Ridgeline is a new company with no track record in managing or operating a water company, Staff recommended a capital structure of 70 percent equity and 30 AIAC/CIAC. This adjustment resulted in a decrease of Ridgeline's projected AIAC/CIAC at the end of five year from \$2,154,468 to \$1,196,808. Staff's recommendations are reasonable and shall be adopted.

24. Staff's adjustments resulted in an OCRB of \$2,315,342, or an increase of \$993,172 over Ridgeline's projected OCRB. The OCRB is the same as the fair value rate base. Staff's recommended OCRB is reasonable and shall be adopted.

25. Staff's recommended rates and charges as set forth in the Discussion Section of this Decision are reasonable and shall be adopted.

26. The rates adopted herein result in adjusted projected revenues in the fifth year of \$339,273, and would generate a fifth year operating income of \$185,227, resulting in an 8.00 percent rate of return on Staff's adjusted estimated OCRB of \$2,315,342.

27. In addition to collection of its regular rates, we find that it is reasonable that Ridgeline shall collect from its customers a proportionate share of any privilege, sales, or use tax.

28. We find that Staff's remaining recommendations, as modified below, are reasonable and should be adopted.

29. Ridgeline shall file with Docket Control, as a compliance item in this docket, within three years of the effective date of this Decision, a copy of the ATC issued by PCDEQ for water

1 facilities needed to serve the Ridgeline Estates development.

2 30. Ridgeline shall obtain a \$250,000 performance bond or irrevocable sight draft letter of
3 credit before the Company serves its first customer and shall file evidence of the performance bond
4 or irrevocable sight draft letter of credit with Docket Control as a compliance item in this docket. We
5 also require Ridgeline to simultaneously file the original performance bond or irrevocable sight draft
6 letter of credit with the Commission's Business Office.

7 31. Ridgeline shall file with Docket Control, as a compliance item in this docket, within
8 90 days of the effect date of this Decision, copies of the documents reflecting the conversion of
9 Pollux's debt to equity.

10 32. Ridgeline shall file with Docket Control, as a compliance item in this docket, within
11 two years after the effective date of order granting Ridgeline's CC&N, a copy of the developer's
12 Certificate of Assured Water Supply for the area being requested.

13 33. Ridgeline shall adopt the depreciation rates listing in Table A of the Engineering
14 Report and attached hereto as Exhibit B.

15 34. Ridgeline shall file with Docket Control, as a compliance item in this docket, within
16 three years after the effective date of this Decision, a curtailment tariff for review and certification by
17 Staff. This tariff shall include a restriction for operation of a standpipe in conformity with the sample
18 tariff found at the Commission's website.

19 35. Ridgeline shall file with Docket Control, as a compliance item in this docket, within
20 three years after the effective date of this Decision, a backflow prevention tariff for review and
21 certification by Staff. This tariff shall conform generally to the sample tariff found at the
22 Commission's website.

23 36. Ridgeline shall notify the Commission that Ridgeline has begun providing water
24 service, through a filing with Docket Control, of the Company's provision of services to customers
25 with 15 days of serving its first customer.

26 37. Ridgeline shall file a rate application no later than six months following the fifth
27 anniversary of the date the Company begins providing service to its first customer.

28 38. Ridgeline shall maintain its books and records in accordance with the National

1 Association of Regulatory Commissioner's Uniform System of Accounts for Water and Wastewater
2 Facilities.

3 39. We further find that, because Ridgeline has not received the PULA, it is reasonable to
4 require Ridgeline to file with Docket Control, as a compliance item in this docket, within one year
5 after the effective date of this Decision, a copy of the PULA.

6 40. Once Ridgeline has complied with the above Findings of Fact Nos. 29, 31, 34, 35, and
7 39, Ridgeline shall file a motion in this docket requesting that the Commission grant the CC&N.
8 Upon the Motion of Ridgeline and Staff's verification that Ridgeline has satisfied these conditions,
9 Staff shall prepare and docket a Recommended Order granting the CC&N for Commission approval.

10 41. Should Ridgeline fail to comply with the deadlines set forth in Findings of Fact Nos.
11 29, 31, 34, 35, and 39, then the Order Preliminary shall become null and void and Staff shall file a
12 memorandum to close this docket.

13 42. Since Ridgeline is located in the Tucson Active Management Area, it will be required
14 to comply with conservation goals and management practices of the ADWR. In light of the
15 prolonged drought in Arizona, we believe it is reasonable to require Ridgeline to go beyond the
16 ADWR requirements. Therefore, we will require Ridgeline to file with Docket Control, as a
17 compliance item in this docket, within 90 days of the effective date of this Decision, a list identifying
18 at least five more Best Management Practices ("BMP") (as outlined in ADWR's Modified Non-Per
19 Capita Conservation Program) than would be required for a water company of its customer size,
20 which it will implement concurrent with commencement of water service to its first permanent
21 customer. Only one of these BMPs shall come from the "Public awareness/PR or Education and
22 Training" categories of the BMPs.

23 43. Because an allowance for property tax expense will be included in Ridgeline's rates
24 and will be collected from its customers, the Commission seeks assurances from the Company that
25 any taxes collected from ratepayers have been remitted to the appropriate taxing authority. It has
26 come to the Commission's attention that a number of water and wastewater companies have been
27 unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers,
28 some for as many as 20 years. It is reasonable, therefore, that as a preventative measure Ridgeline

1 shall annually file, as part of its annual report, an affidavit with the Utilities Division attesting that the
2 Company is current in paying its property taxes in Arizona.

3 **CONCLUSIONS OF LAW**

4 1. Ridgeline is a public service corporation within the meaning of Article XV of the
5 Arizona Constitution and A.R.S. §§40-281 and 40-282.

6 2. The Commission has jurisdiction over Ridgeline and the subject matter of the
7 Application.

8 3. Notice of the Application was provided in accordance with Arizona law.

9 4. There is a public need and necessity for water service in the proposed service area as
10 set forth in Exhibit A attached hereto, necessitating the issuance of an Order Preliminary to the
11 issuance of a CC&N pursuant to A.R.S. § 40-282(D).

12 5. Ridgeline is a fit and proper entity to receive an Order Preliminary to the issuance of a
13 CC&N to provide water service in the proposed service area as set forth in Exhibit A attached hereto.

14 6. Staff's recommendations, as modified herein, and the conditions set forth in Findings
15 of Fact Nos. 26 through 41, are reasonable and should be adopted.

16 **ORDER**

17 IT IS THEREFORE ORDERED that, pursuant to A.R.S. § 40-282(D), an Order Preliminary
18 to the issuance of the Certificate of Convenience and Necessity to Ridgeline Water Company, L.L.C.,
19 is hereby approved subject to the terms and conditions stated herein.

20 IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C., shall file with Docket
21 Control, as a compliance item in this docket, a public utilities license agreement from Pima County
22 Board of Supervisors within one year of the effective date of this Decision.

23 IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C., shall file with Docket
24 Control, as a compliance item in this docket, copies of the executed documents demonstrating the
25 conversion of Pollux Properties, L.L.C.'s, debt to equity within 90 days of the effective date of this
26 Decision.

27 IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C., shall file with Docket
28 Control, as a compliance item in this docket, within three years of the effective date of this Decision,

1 a copy of the Approval to Construct issued by the Pima County Department of Environmental
2 Quality for water system facilities needed to serve the Ridgeline Estates development.

3 IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C., shall file with Docket
4 Control, as a compliance item in this docket, within three years after the effective date of this
5 Decision, a curtailment tariff. The curtailment tariff shall include a restriction for operation of a
6 standpipe in conformity with the sample curtailment tariff found on the Commission's website.

7 IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C., shall file with Docket
8 Control, as a compliance item in this docket, within three years after the effective date of this
9 Decision, a backflow tariff. The backflow tariff shall conform generally to the sample tariff found on
10 the Commission's website.

11 IT IS FURTHER ORDERED that upon completion of the requirements contained in the
12 above ordering paragraphs, Ridgeline Water Company, L.L.C. shall file a motion in this docket
13 requesting that the Commission grant the Certificate of Convenience and Necessity.

14 IT IS FURTHER ORDERED that, within 30 days after Ridgeline Water Company, L.L.C.,
15 and on Staff's verification that the Company has satisfied the above conditions, Staff shall prepare
16 and docket for Commission approval a recommended Order granting the Certificate of Convenience
17 and Necessity.

18 IT IS FURTHER ORDERED that if Ridgeline Water Company, L.L.C., fails to comply with
19 the terms set forth in the above ordering paragraphs, this Order Preliminary shall be deemed null and
20 void, and Staff shall file a memorandum to close this docket.

21 IT IS FURTHER ORDERED that the Certificate of Convenience and Necessity issued to
22 Ridgeline Water Company, L.L.C., in this docket shall be subject to the following terms and
23 conditions stated below.

24 IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C., shall charge initial rates
25 and charges in accordance with Staff's recommendations, as set forth below:

26 MONTHLY USAGE CHARGE:

27 5/8" x 3/4" Meter	\$100.00
28 3/4" Meter	150.00

1	1" Meter	250.00
2	1 1/2" Meter	500.00
3	2" Meter	800.00
4	3" Meter	1,500.00
5	4" Meter	2,500.00
6	6" Meter	5,000.00

GALLONS INCLUDED IN MONTHLY CHARGE 0

COMMODITY CHARGE PER 1,000 GALLONS OF USAGE:

5/8 x 3/4" Meters

0 to 3,000 Gallons	\$ 6.00
3,001 to 10,000 Gallons	10.00
10,001 Gallons and above	13.00

3/4" Meters

0 to 3,000 Gallons	\$ 6.00
3,001 to 10,000 Gallons	10.00
10,001 Gallons and above	13.00

1" Meters

3,001 to 10,000 Gallons	\$10.00
10,001 Gallons and above	13.00

1 1/2" Meters

3,001 to 10,000 Gallons	\$10.00
10,001 Gallons and above	13.00

2" Meters

3,001 to 10,000 Gallons	\$10.00
10,001 Gallons and above	13.00

3" Meters

3,001 to 10,000 Gallons	\$10.00
10,001 Gallons and above	13.00

4" Meters

3,001 to 10,000 Gallons	\$10.00
10,001 Gallons and above	13.00

6" Meters

3,001 to 10,000 Gallons	\$10.00
10,001 Gallons and above	13.00

SERVICE CHARGES:

1	Establishment	\$25.00 (a)
2	Establishment of Service(After Hours)	40.00 (b)
3	Re-establishment of Service(Within 12 Months)	(a)
4	Reconnection	25.00 (c)
5	Charge for moving meter at customer request	Cost (d) *
6	After hours service charge, per hour	N/A
7	After hours service charge, flat rate	40.00 (a)
8	Deposit	(e)
9	Meter reread	15.00 (f)
10	Charge for NSF Check	15.00 (g)
11	Late Payment charge	1.50% (h)
12	Deferred Payment Finance Charge	1.5% (i)
13	Main Extension and additional facilities agreements per Rule R14-2-406.B	N/A **

All revenue related taxes would be charged to customers.

*Cost to include part, labor, overhead, and all applicable taxes.

**Not applicable. Main line extension agreements must be submitted to the Commission for review and approval per Commission Rule A.A.C. R14-2-406.

- (a) Per Commission Rule A.A.C. R14-2-403(D).
- (b) Months off system times the monthly minimum per Commission Rule A.A.C. R14-2-403(D)(2).
- (c) Per Commission Rule A.A.C. R14-2-403(D)(1).
- (d) Per Commission Rule A.A.C. R14-2-405(B)(5).
- (e) Per Commission Rule A.A.C. R14-2-403(B).
- (f) Per Commission Rule A.A.C. R14-2-408.
- (g) Per Commission Rule A.A.C. R14-2-409(F)(1).
- (h) Per Commission Rule A.A.C. R14-2-409(C)(1).
- (i) Per Commission Rule A.A.C. R14-2-409(G).

SERVICE LINE AND METER INSTALLATION CHARGES:

	Service Line Charges	Meter Charges	Total Charges
5/8" x 3/4" Meter	\$ 415.00	\$ 105.00	\$ 520.00
3/4" Meter	415.00	205.00	620.00
1" Meter	465.00	265.00	730.00
1 1/2" Meter	520.00	475.00	995.00
2" Meter (Turbine)	800.00	995.00	1,795.00
2" Meter (Compound)	800.00	1,840.00	2,640.00
3" Meter (Turbine)	1,015.00	1,620.00	2,635.00
3" Meter (Compound)	1,135.00	2,495.00	3,630.00
4" Meter (Turbine)	1,430.00	2,570.00	4,000.00
4" Meter (Compound)	1,610.00	3,545.00	5,155.00
6" Meter (Turbine)	2,150.00	4,925.00	7,075.00
6" Meter (Compound)	2,270.00	6,820.00	9,090.00

IT IS FURTHER ORDERED that, in addition to collection of its regular rates, Ridgeline Water Company, L.L.C., shall collect from its customers a proportionate share of any privilege, sales, or use tax.

1 IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C., shall obtain a \$250,000
2 performance bond or irrevocable sight draft letter of credit 30 days prior to providing service to its
3 first customer and shall file evidence of such performance bond or irrevocable sight draft letter of
4 credit with Docket Control as a compliance item in this docket. Ridgeline Water Company, L.L.C.,
5 shall simultaneously file the original performance bond or irrevocable sight draft letter of credit with
6 the Commission Business Office.

7 IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C., shall file with Docket
8 Control, as a compliance item in this docket, within two years after the effective date of the Order
9 granting the Certificate of Convenience and Necessity a copy of the developer's Certificate of
10 Assured Water Supply for the property described in the attached Exhibit A.

11 IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C., shall adopt the
12 depreciation rates listed in Table A of the Engineering Report, attached hereto as Exhibit B.

13 IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C., shall obtain 70 percent
14 equity and 30 percent advances/contributions in aid of construction capitalization by the end of its
15 fifth year of operation.

16 IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C., shall notify the
17 Commission that Ridgeline Water Company, L.L.C., has begun providing water service, through a
18 filing with Docket Control, within 15 days of providing service to its first customer.

19 IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C., shall file a rate
20 application no later than six months following the fifth anniversary of the date Ridgeline Water
21 Company, L.L.C., began serving its first customer.

22 IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C., shall maintain its books
23 and records in accordance with the National Association of Regulatory Utility Commissioners
24 Uniform System of Accounts for Water and Wastewater Facilities.

25 IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C. is hereby prohibited, in
26 accordance with its stated plans, from selling groundwater for the purpose of irrigating any golf
27 courses within the certificated area or any ornamental lakes or water features located in the common
28 areas of the proposed new developments within the certificated area.

1 IT IS FURTHER ORDERED that failure by Ridgeline Water Company, L.L.C., to comply
2 with the terms and conditions set forth herein, within the specified time frames set forth above, will
3 render the Certificate of Convenience and Necessity null and void, after due process, unless the
4 Commission grants an extension of time for compliance with those requirements.

5 IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C., shall annually file as
6 part of its annual report, an affidavit with the Utilities Division attesting that it is current on paying its
7 property taxes in Arizona.

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IT IS FURTHER ORDERED that Ridgeline Water Company, L.L.C., shall file with Docket Control, as a compliance item in this docket, within 90 days of the effective date of this Decision, a list identifying at least five more Best Management Practices (as outlined in ADWR's Modified Non-Per Capita Conservation Program) than would otherwise be required for a water company of its customer size which it will implement concurrent with commencement of water service to its first permanent customer. Only one of these BMPs shall come from the "Public awareness/PR or Education and Training categories of the BMPs.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


CHAIRMAN


COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, MICHAEL KEARNS, Interim Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 6TH day of FEBRUARY, 2009.


MICHAEL P. KEARNS
INTERIM EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: RIDGELINE WATER COMPANY, L.L.C.

2 DOCKET NO. W-20589A-08-0173

3
4 Jeffrey S. Utsch
RIDGELINE WATER COMPANY, L.L.C.
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Phoenix, Arizona 85007

11 Ernest G. Johnson, Director
12 Utilities Division
ARIZONA CORPORATION COMMISSION
13 1200 West Washington Street
Phoenix, Arizona 85007
14

Exhibit A

Legal Description

Parcel 1:

The Northwest quarter of the Southeast quarter of Section 18, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 7

Parcel 2:

The Northeast quarter of the Southwest quarter of Section 18, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 2

Parcel 3:

The Southwest quarter of the Southeast quarter of Section 18, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 9

Parcel 4:

The Northwest quarter of the Southeast quarter of Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 10

Parcel 5:

A portion of Government Lot 4 in Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona, described as follows:

BEGINNING at the Southwesterly corner of said Lot 4, which is monumented by a set ½ inch rebar tagged "RLS 35111";

THENCE North 00 degrees 03 minutes 21 seconds West, upon the Westerly line of said Lot 4, a distance of 58.48 feet;

THENCE South 88 degrees 41 minutes 16 seconds East, a distance of 206.46 feet;

THENCE North 81 degrees 11 minutes 10 seconds East, a distance of 278.20 feet;

THENCE North 61 degrees 47 minutes 14 seconds East, a distance of 388.51 feet;

THENCE North 57 degrees 52 minutes 05 seconds East, a distance of 585.08 feet to the Easterly line of said Lot 4;

THENCE South 00 degrees 03 minutes 10 seconds East, upon said Easterly line, a distance of 590.64 feet to the Southeasterly corner thereof;

THENCE South 89 degrees 58 minutes 29 seconds West, upon the Southerly line of said Lot 4, a distance of 1,320.49 feet to the POINT OF BEGINNING.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 43

Parcel 6:

The South half of the Southeast quarter of the Northwest quarter of Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 25

Parcel 7:

The South half of the Northeast quarter of the Southwest quarter of Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 34

Parcel 8:

The East half of the North half of the Northeast quarter of the Southwest quarter of Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 36

Parcel 8A:

An easement for ingress, egress, and utilities over, under, and across the North half of the Northeast quarter of the Southwest quarter of Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona, said easement being 30 feet in width, the centerline of which extends from the mid point of the North line of the North half of the Northeast quarter of the Southwest quarter of Section 19, Township 19 South, Range 14 East, Southerly to the mid point of the North line of the South half

of the Northeast quarter of the Southwest quarter of Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

Parcel 9:

The South half of the Northeast quarter of the Southeast quarter of Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT coal and other minerals as reserved in the Patent from United States of America.

JV arb 29

Parcel 9A:

A right-of-way for ingress and egress and an easement for poles, wires, pipes, and conduits for lighting, heating, electricity, gas, telephone, and any other public or quasi-public utility service purposes, on, over, and under the North 30 feet of the South half of the Southeast quarter of Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

Parcel 10:

The North half of the Northeast quarter of the Southeast quarter of Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

TOGETHER WITH a right-of-way and easement over the West 20 feet of the South half of the Northeast quarter of the Southeast quarter of Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

JV arb 18

Parcel 11:

The West one-half of the Southeast quarter of the Southeast quarter of Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 19

Parcel 12:

The North half of the Southwest quarter of the Southeast quarter of Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 33

Parcel 13:

The Southwest quarter of the Southwest quarter of the Southeast quarter of Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 30

Parcel 14:

The Southeast quarter of the Southwest quarter of the Southeast quarter of Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 32

Parcel 15:

A portion of Government Lot 3 in Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona, described as follows:

The South 160.00 feet of Government Lot 3 in Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 45

Parcel 16:

The Southwest quarter of the Southwest quarter of Section 20, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 6

Parcel 17:

A portion of the Northwest quarter of the Southwest quarter of Section 20, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona, described as follows:

The West 330.00 feet of the Northwest quarter of the Southwest quarter of Section 20, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

Portion of JV arb 5

Parcel 18:

The South half of the Northeast quarter of Section 29, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arbs 4 and 6

Parcel 19:

The West half of the Northeast quarter of the Northwest quarter of Section 29, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 30

Parcel 20:

The East half of the Northeast quarter of the Northwest quarter of Section 29, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 31

Parcel 21:

The West half of the Northwest quarter of the Northwest quarter of Section 29, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 29

Parcel 22:

The Southwest quarter of the Northeast quarter of the Northeast quarter of Section 30, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 15

Parcel 23:

The South 660 feet of the East 330 feet thereof, of the Northeast quarter of the Northeast quarter of Section 30, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from United States of America.

JV arb 24

Parcel 24:

The Northeast quarter of the Northeast quarter of Section 30, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT the South 660 feet of the East 330 feet thereof.

FURTHER EXCEPT the Southwest quarter thereof.

FURTHER EXCEPT all coal and other minerals as reserved in Patent from United States of America.

Parcel 28:

The North half of the Southeast Quarter of the Northwest Quarter of Section 29, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals, as reserved in Patent from United States of America

(Jv arb 15)

(State Tax Parcel: 304-45-007D)

Parcel 29

The West half of the Northwest Quarter of the Northeast Quarter of Section 19, Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

Parcel 30:

A portion of Government Lot 4 of Section 19, Township 19 South, Range 14 East, Gila and Salt River Meridian, Pima County, Arizona, described as follows:

COMMENCING at the Southwesterly corner of said Lot 4, which is monumented by a set ½ inch rebar tagged "RLS 35111";

THENCE North 00 degrees 03 minutes 21 seconds West, upon the Westerly line of said Lot 4, 58.48 feet to the POINT OF BEGINNING;

THENCE continue North 00 degrees 03 minutes 21 seconds West, upon said Westerly line, 1259.24 feet to the Northwestern corner of said Lot 4;

THENCE North 89 degrees 57 minutes 32 seconds East, upon the Northerly line of said Lot 4, 1319.69 feet to the Northeasterly corner thereof;

THENCE South 00 degrees 03 minutes 10 seconds East, upon the Easterly line of said Lot 4, 727.44 feet;

THENCE South 57 degrees 52 minutes 05 seconds West, 585.08 feet;

THENCE South 61 degrees 47 minutes 14 seconds West, 388.51 feet;

THENCE South 81 degrees 11 minutes 10 seconds West, 278.20 feet;

THENCE North 88 degrees 41 minutes 16 seconds West, 206.46 feet to the POINT OF BEGINNING.

EXCEPT all coal and other minerals, as reserved in Patent from United States of America.

(JV Arb. 44)

Parcel 31:

The Southeast Quarter of the Northwest Quarter of the Northwest Quarter of Section 29 Township 19 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT all coal and other minerals, as reserved in Patent from United States of America.

(Jv arb 14)

(State Tax Parcel: 304-45-009D)

EXHIBIT B

Table A. Water Depreciation Rates

TYPICAL DEPRECIATION RATES FOR WATER COMPANIES

NARUC Account No.	Depreciable Plant	Average Service Life (Years)	Annual Accrual Rate (%)
304	Structures & Improvements	30	3.33
305	Collecting & Impounding Reservoirs	40	2.50
306	Lake, River, Canal Intakes	40	2.50
307	Wells & Springs	30	3.33
308	Infiltration Galleries	15	6.67
309	Raw Water Supply Mains	50	2.00
310	Power Generation Equipment	20	5.00
311	Pumping Equipment	8	12.5
320	Water Treatment Equipment		
320.1	Water Treatment Plants	30	3.33
320.2	Solution Chemical Feeders	5	20.0
330	Distribution Reservoirs & Standpipes		
330.1	Storage Tanks	45	2.22
330.2	Pressure Tanks	20	5.00
331	Transmission & Distribution Mains	50	2.00
333	Services	30	3.33
334	Meters	12	8.33
335	Hydrants	50	2.00
336	Backflow Prevention Devices	15	6.67
339	Other Plant & Misc Equipment	15	6.67
340	Office Furniture & Equipment	15	6.67
340.1	Computers & Software	5	20.00
341	Transportation Equipment	5	20.00
342	Stores Equipment	25	4.00
343	Tools, Shop & Garage Equipment	20	5.00
344	Laboratory Equipment	10	10.00
345	Power Operated Equipment	20	5.00
346	Communication Equipment	10	10.00
347	Miscellaneous Equipment	10	10.00
348	Other Tangible Plant	----	----

NOTES:

1. These depreciation rates represent average expected rates. Water companies may experience different rates due to variations in construction, environment, or the physical and chemical characteristics of the water.
2. Acct. 348, Other Tangible Plant may vary from 5% to 50%. The depreciation rate would be set in accordance with the specific capital items in this account.